IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

MONDAY, THE SIXTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

And
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT APPEAL NO : 1943 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 01/11/2004 in WP NO: 19596 OF 2004 on the file of the High Court.)

Between:

The Siddiqui Aided School's Committee, Sirvel, Kurnool District, rep. by its president and Correspondent K.J.Saheb Basha Siddiqui, S/o.Moinuddin Siddiqui, R/o.Sirvel, Kurnool District.

..... APPELLANT

AND

1 The District Educational officer, Kurnool, Kurnool District.
2 The Commissioner & Director of School Education, Andhra Pradesh, Saifabad, Hyderabad.

.....RESPONDENTS

Counsel for the Appellant: MR. KASA JAGANMOHAN REDDY

Counsel for the Respondent: GP FOR SCHOOL EDUCATION

The Court made the following :

ORDER: (*per Hon'ble Smt Justice T. Meena Kumari***)**

This Writ Appeal is filed by the appellant against the order of the learned Single Judge of this Court in W.P. No. 19596 of 2004 dated 1.11.2004.

Appellant is the writ petitioner. For the sake of convenience, the parties will be referred to as arrayed in the writ petition.

The writ petitioner filed the writ petition assailing the action of the respondents in not releasing the salaries for the teachers who have been transferred from one school to another school under the management of the petitioner and also denying the salaries to the teachers, is contrary to the instructions of the Director of School Education.

The grievance of the petitioner is that the transfer orders dated 28.6.2004 have been sent to the District Educational Officer (1st respondent) for his approval. However, it is further contended that in the absence of any guidelines, the approval is only formal and could have been done immediately and therefore, he cannot return the teaching grant bills on the ground that the transfers have not been approved.

It is the further case of the petitioner that as a matter of fact, as per the instructions of the Government, there are no such restrictions on the management with regard to the transfers of teachers from one school to another school under the same management as they are all treated one unit.

On the other hand, it is contended by the respondents that as per the proceedings RC. No. 2297/D1-4/92 of the Director of School Education, dated 28-10-1992, ratification orders are required for the said transfers. It is further contended that there were representations dated 5.4.2004 from the Association

of the Aided Teachers with regard to the transfers and that too, there were certain allegations against the management.

On the rival contentions, the learned single Judge having observed that there is no material to show that the proceedings of the 1st respondent dated 28.6.2004 and the return of the bills, dated 28.8.2004, are illegal, dismissed the writ petition. Having aggrieved by the same, the present writ appeal is preferred by the petitioner.

Heard the learned counsel on either side.

Learned counsel appearing on behalf of the appellant-writ petitioner argued that the proceedings in G.O. Ms. No. 104 dated 30-1-1978 have been withdrawn by the proceedings dated 3267/D1/79, dated 29-2-1980. However, the Director of School Education on 28-10-1992, laying down certain guidelines for the transfers, has issued the proceedings. Learned counsel further argued that the management has not violated any existing guidelines as the transfers have been affected at the beginning of the academic year and also on administrative grounds. It has also been further argued that there is no material placed before this Court by the respondent that the petitioner-management has violated any guidelines in affecting the transfers.

On the other hand, it has been contended by the learned counsel for the respondents that the petitioner has not submitted any proposals to the 1st respondent for approval of the transfers affected by the petitioner and as such, the salaries of the teachers were with held. Therefore, the claim of the petitioner is liable to be dismissed.

We have perused the order impugned and the entire material papers available on record.

Certain guidelines have been laid down by the Government for affecting transfers of teachers of aided schools In G.O.Ms.No: 104, Education, dated 30.1.1978, under which the Government has directed that,

" I) The transfer of sister teachers belong to the ecclesiastical order from the educational institutions in one district to the educational institutions in another district under the same management, could be made with the prior approval of the Joint Director of School Education provided the Seniority of any lade teacher working in the latter institution is not affected'

ii) a) the transfer of the teachers under private managements including mission managements having more than one school shall be made within the district itself, subject to the maintenance of common seniority list by the management of the schools duly approved by the Dist. Educational Officer;

b) the transfer of teachers shall be made only in the beginning of the academic year with the approval of the District Educational Officer."

As could be seen from the proceedings of the Director of School Education, A.P. Hyderabad, dated 29.2.1980, it is apparent that while considering the validity or otherwise of the above said G.O., in W.P.No:4221 of 1979, this Court has struck off the said G.O. on 19.9.1979. Having aggrieved by the same, a writ appeal has been preferred, but there is no interim stay or suspension of the above judgment. Therefore, It can be said that so long as the writ appeal is pending, the judgment of this Court in W.P.No:4221, is in force and binding on the authorities.

At the same time, it is also not brought to the notice of this Court as to whether the above writ appeal preferred against the judgment in W.P.No:4221 of 1979, is pending or disposed of and if so, whether there is any modification of the judgment dated 19.9.1979.

During the course of hearing the case, the learned G.P. for Education has produced a copy of the letter addressed by the 1st respondent dated 29.10.2004. As could be seen from it, it is apparent that certain complaints were sent to the Office of the Chief Minister alleging that the petitioner has not been following the seniority and besides that, the Management is demanding the amount for issuing transfers and promotions. It is further seen that the Deputy Education Officer, Nandyal was appointed as an Enquiry Officer to enquire into the allegations and the enquiry report is awaited. Apart from that, the respondent has not adduced any material on record evidencing that the petitioner has violated any of the existing guidelines while affecting the transfers in question. But, mere allegation cannot be a ground to reject the claim of the petitioner in as much as the report of the Enquiry Officer is awaited.

In these circumstances, We are of the considered view that the action of the respondent in not approving the transfers in question and in returning the teaching grant bills, is arbitrary and as such, the order impugned is liable to be

set aside.

Accordingly, the Writ appeal is allowed setting set aside the order of the learned single Judge. Consequently, the proceedings of the 1st respondent, dated 28.8.2004 are quashed and the matter is remitted to the first respondent for passing appropriate orders with a direction to release the salaries of the teachers, which were withheld from July 2004 onwards. However, there will be no order as to costs.

T. MEENA KUMARI, J.

S. ANANDA REDDY, J.

06-12-2004

dvs

To

1 The District Educational officer, Kurnool, Kurnool District.
2 The Commissioner & Director of School Education, Andhra Pradesh, Saifabad, Hyderabad.

3. The leaned counsel for the petitioner (OUT)

4. Two CCs to the G.P. for School Education, High Court buildings,

Hyderabad.

5. Two C D copies.